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Agency

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and Emergency Response
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Office of Solid Waste

EPA

Environmental Fact Sheet

PROPOSED RULE TO IDENTIFY THE STATUS OF TWENTY MINERAL PROCESSING WASTES WITHIN THE BEVILL AMENDMENT

BACKGROUND

In 1980, Congress amended the Resource Conservation and Recovery Act (RCRA) to temporarily exclude wastes from the extraction, beneficiation (e.g., crushing and sizing), and processing of ores and minerals from hazardous waste regulation. Known as the Bevill Amendment, this exclusion is temporary until EPA completes a Report to Congress and makes a regulatory determination on the ultimate status of these wastes.

In 1985, EPA proposed to narrow its 1980 interpretation of the Bevill Amendment for mineral processing wastes. However, EPA later withdrew this proposal because it believed the proposal was technically inadequate. This withdrawal led to a lawsuit by the Environmental Defense Fund and the Hazardous Waste Treatment Council, who claimed that the Bevill exclusion should include only so-called "special wastes" (i.e., only mineral processing wastes that are both "high-volume" and "low-hazard" wastes). In July 1988, the court determined that six smelting wastes were clearly hazardous and ordered EPA to list them as hazardous. EPA did so on August 31, 1988.

On October 20, 1988 (53 FR 41288), EPA proposed the criteria by which mineral processing wastes would be evaluated for continued exclusion, and revised the criteria on April 17, 1989 (54 FR 15316). On September 1, 1989 (54 FR 36592), EPA provided the final criteria, and made final the Bevill status of most mineral processing waste streams, except for 20 specific waste streams. For these 20 mineral processing wastes, EPA conditionally retained the exclusion from Subtitle C regulation provided by Section 3001(b)(3)(A) (ii) of RCRA, pending collection of additional information. (Attachment 1 identifies the specific waste streams that are conditionally retained in the September 1, 1989, final rule.)

The September 1, 1989, final rule also made final the Bevill status of nine mineral processing wastes streams that had been proposed either for retention within or removal from the exclusion in the April 1989 notice. EPA temporarily retained five wastes within the Bevill exclusion.

1. Slag from primary copper processing;
2. Slag from primary lead processing;
3. Red and brown muds from bauxite processing;
4. Phosphogypsum from phosphoric acid production; and
5. Slag from elemental phosphorus production.

EPA permanently removed the remaining four wastes from the Bevill exclusion:

1. Furnace scrubber blowdown from elemental phosphorus production;
2. Acid plant and scrubber blowdown from primary copper processing;
3. Acid plant blowdown from primary lead processing; and
4. Air pollution control scrubber blowdown from primary tin processing.

In addition, EPA modified the list of mineral processing wastes proposed for conditional retention in April 1989.

All other mineral processing wastes that were proposed for conditional retention will be permanently removed from the Bevill exclusion as of the effective date of the September 1, 1989, final rule, which will be March 1, 1990. These wastes will be subject to RCRA Subtitle C regulation if they are solid wastes and exhibit one or more of the characteristics of hazardous waste as defined in 40 CFR 261.

ATTACHMENT 1
Mineral Processing Wastes Conditionally Retained in the September 1, 1989, Final Rule

1. Roast/leach ore residue from primary chromite production;
2. Gasifier ash from coal gasification;
3. Process wastewater from coal gasification;
4. Slag tailings from primary copper processing;
5. Calcium sulfate wastewater treatment plant sludge from primary copper processing;
6. Furnace off-gas solids from elemental phosphorus production;
7. Fluorogypsum from hydrofluoric acid production;
8. Process wastewater from hydrofluoric acid production;
9. Air pollution control dust/sludge from iron blast furnaces;
10. Iron blast furnace slag;
11. Process wastewater from primary lead production;
12. Air pollution control dust/sludge from lighweight aggregate production;
13. Process wastewater from primary magnesium processing by the anhydrous process;
14. Process wastewater from phosphoric acid production;
15. Basic oxygen furnace and open hearth furnace slag from carbon steel production;
16. Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
17. Sulfate processing waste acids from titanium dioxide production;
18. Sulfate processing waste solids from titanium dioxide production;
19. Chloride processing waste solids from titanium tetrachloride production; and
20. Slag from primary zinc processing.

ACTION

This proposed rule describes the results of EPA's application of the high-volume and low-hazard criteria contained in the September 1, 1989, final rule to the 20 conditionally retained mineral processing wastes. This application involved a three-step process (Section IV of the proposal's preamble discusses each step in detail).

Applying these criteria, EPA proposes to remove 7 mineral processing wastes from the Bevill exclusion, and to temporarily retain 13 mineral processing wastes within the exclusion, pending the final rulemaking in January 1990 on the September 1989 proposal, the preparation of a Report to Congress in July 1990, and in a subsequent regulatory determination in January 1991. (See Attachment 2 for the list of proposed mineral processing wastes for removal from the Bevill exclusion and temporary retentions within the exclusion.)

EPA is also proposing a revision to the definition of "designated facility" to eliminate any confusion that the public and the regulated community may have over its applicability. This proposal would provide that if a waste is sent to an authorized state where the waste is not considered hazardous, then the designated facility must be a facility allowed by the state to accept the waste. This regulatory clarification would only apply where a hazardous waste in one state is shipped to a second state that has not yet regulated the waste as hazardous. (In fact, EPA's current interpretation of "designated facility" leads to the same result as the proposal.)

REQUEST FOR COMMENTS

EPA solicits public comment on the data used to take these proposed actions. However, EPA will not respond to comments on the Bevill mineral processing wastes criteria made final in the September 1, 1989, final rule. This is because these criteria were developed in response to comments submitted in two public comment periods subsequent to proposals published in October 1988 and April 1989.

CONTACT

For further information or to order a copy of the *Federal Register* notice, please contact the RCRA hotline Monday through Friday, 8:30 a.m. to 7:30 p.m. EST. The national toll-free number is (800) 424-9346; for the hearing impaired, it is TDD (800) 553-7672. In Washington, D.C., the number is (202) 382-3000, or TDD (202) 475-9652.

ATTACHMENT 2

Mineral Processing Wastes Proposed for Removal from the Bevill Exclusion

1. Roast/leach ore residue from primary chromite production;
2. Process wastewater from coal gasification;
3. Furnace off-gas solids from elemental phosphorus production;
4. Process wastewater from hydrofluoric acid production;
5. Process wastewater from primary lead production;
6. Sulfate processing waste acids from titanium dioxide production; and
7. Sulfate processing waste solids from titanium dioxide production.

Mineral Processing Wastes Proposed to Be Temporarily Retained in the Bevill Exclusion

1. Gasifier ash from coal gasification;
2. Slag tailings from primary copper processing;
3. Calcium sulfate wastewater treatment plant sludge from primary copper processing;
4. Fluorogypsum from hydrofluoric acid production;
5. Air pollution control dust/sludge from iron blast furnaces;
6. Iron blast furnace slag;
7. Air pollution control dust/sludge from lightweight aggregate production;
8. Process wastewater from primary magnesium processing by the anhydrous process;
9. Process wastewater from phosphoric acid production;
10. Basic oxygen furnace and open hearth furnace slag from carbon steel production;
11. Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
12. Chloride processing waste solids from titanium tetrachloride production; and
13. Slag from primary zinc processing.